IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 522 of 2005

Date of decision 16.5.2006

Sat Parkash alias Shiv Parkash and others …Appellants.

Versus

Sanjay Soni and others …Respondents.

Coram

The Hon'ble Mr. Justice : **Surjit Singh, Judge.**

Whether approved for reporting?

For the appellants: Mr. Ajay Sharma, Advocate.

For respondents : Mr. Ashwani Kumar Sharma, Advocate.

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. Late Shri Prem Nath, plaintiff, now represented by his legal representatives, appellants herein, filed a suit for possession by way of partition, claiming that he had 1/4th share in certain landed property, assessed to land revenue, and 1/3rd share in a house, pleading that he and his three brothers, namely Gujjar Mall, Amar Nath and Dharam Pal, whose

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Whether reporters of Local Papers may be allowed to see the Judgment?

successors were impleaded as defendants and are respondents in the present appeal, had purchased the suit property jointly and all the four brothers had 1/4th share each. It was alleged that so far as the landed property was concerned, all the four brothers were entitled to 1/4th share on partition. As regards the house, he however, claimed that it had been constructed by him and two of his brothers, namely Amar Nath and Dharam Pal jointly and, therefore, only he and his aforesaid two brothers had 1/3rd share each in the house and the fourth brother Gujjar Mall, whose share had been purchased by respondents No. 1 and 2, had no right, title or interest in that house.

3. Suit was contested and respondents No. 1 and 2, i.e. the successors-in-interest of fourth brother Gujjar Mall, took the plea that the house was constructed by them exclusively. As regards to the shares of the parties in the landed property, there was no dispute.

4. The two Courts below have returned the concurrent finding that all the four brothers had 1/4th share not only in the landed property but also in the house.

5. A reading of the judgments of the two Courts below shows that the finding has been arrived at by considering into the entire evidence. The judgments show that a document Ext. DW-2/A was relied upon by the defendants. The document is signed by all the four brothers, including the sons of Gujjar Mal, from whom defendants No. 1 and 2 purchased 1/4th share. In the said writing it is admitted by all the four brothers that they had 1/4th share each even in the house.

6. In view of the above stated position, it cannot be said that any question of law, leave alone substantial question of law, arises. The appeal is, therefore, dismissed.

CMP No. 887 of 2005

In view of dismissal of the appeal, the application has become infructuous and is dismissed as such. The interim stay granted on 7.10.2005 is vacated.

May 16, 2006 (BC) **(Surjit Singh), J.**